

**WASTE MANAGEMENT BOARD  
ENFORCEMENT ACTION**

**ORDER BY CONSENT  
ISSUED TO  
Halifax County Sanitary Landfill Permit Number 92  
Halifax County, Virginia**

**SECTION A: Purpose**

This is a Consent Order issued under the authority of Va. Code §§ 10.1-1185 and 10.1-1455.C and F, between the Waste Management Board and Halifax County for the purpose of resolving certain violations of environmental law and regulations.

**SECTION B: Definitions**

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. “Va. Code” means the Code of Virginia (1950), as amended.
2. “Board” means the Virginia Waste Management Board, a permanent collegial body of the Commonwealth of Virginia as described in Code §§ 10.1-1401 and 10.1-1184.
3. “Department” or “DEQ” means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
4. “Director” means the Director of the Department of Environmental Quality.
5. “Order” means this document, also known as a Consent Order.
6. “Halifax” means the County of Halifax located in Virginia.

7. “Facility” or “Landfill” means the Halifax County Sanitary Landfill, issued Solid Waste Facility Permit – Permit Number 92, operating in Halifax County, Virginia.
8. “PRO” means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.
9. “SCRO” means the South Central Regional Office of DEQ, located in Lynchburg, Virginia.
10. “Permit” means Solid Waste Facility Permit – Permit Number 92 issued on March 14, 1973, which was amended on June 30, 1994, and again on January 14, 2000.
11. “VSWMR” means the Virginia Solid Waste Management Regulations, 9 Virginia Administrative Code (“VAC”) 20-80-12 *et seq.*
12. “SEP” means Supplemental Environmental Project as defined at Va. Code § 10.1-1186.2.A.

#### **SECTION C: Findings of Fact and Conclusions of Law**

1. Halifax owns and operates a solid waste landfill in Halifax County, Virginia under Solid Waste Facility Permit – Permit Number 92.
2. On April 30, 2001, May 24, 2001, June 14, 2001, and July 24, 2001, the Department conducted inspections of the Facility. Based upon the information gathered during the inspections the Department issued Notice of Violation (“NOV”) number 2001-08-PRO-603 on August 10, 2001. The NOV alleged failure to maintain intermediate cover in accordance with 9 VAC 20-80-250.C.2.d on the inactive waste disposal areas in Sections II and III; discharge of leachate from the west side of Section III into State waters in contravention of 9 VAC 20-80-250.C.12; failure to complete closure pursuant to 9 VAC 20-80-250.E.4; and, failure to monitor decomposition gas probes in accordance with 9 VAC 20-80-280.A.1 and the Permit in response to exceedences of the lower explosive limit (“LEL”) for methane gas at the Facility boundary.
3. On September 5, 2001, DEQ-PRO, DEQ-SCRO, and Halifax discussed NOV number 2001-08-PRO-603 via teleconference. Halifax issued a Notice to Proceed with construction of the final cap for Sections II and III on August 1, 2001. Halifax believes completion of final capping on Sections II and III will address erosion of the intermediate cover, leachate seeps, and will assist in venting decomposition gases. Halifax has relocated the gas probes to the newly established Facility boundary.
4. Halifax began capping the Facility in October 2001 and capping was completed in March 2002. The DEQ received the construction quality assurance (“CQA”) report on September 4, 2002.

5. On January 23, 2003, the DEQ and Halifax County met in Halifax to discuss the SEP, final compliance, and to inspect the Facility. Halifax County has corrected the violations, completed closure, and has requested closure certification from the Department.

#### **SECTION D: Agreement and Order**

Accordingly, the Board, by virtue of the authority granted in Va. Code §10.1-1455.C and F orders Halifax, and Halifax consents, to perform the actions contained in Appendix A of this Order. Further, the Board orders, and Halifax consents, to pay a civil charge of \$19,600.00 in settlement of the violations cited herein.

1. \$4,900.00 of the civil charge shall be paid within 30 days of the effective date of this Order. The payment shall note that it is being made pursuant to this Order and shall note the Federal Identification number for Halifax County, Virginia. The payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia", and delivered to:

Receipts Control  
Department of Environmental Quality  
Post Office Box 10150  
Richmond, Virginia 23240

2. \$14,700.00 of the civil charge shall be satisfied upon completion of a SEP pursuant to Va. Code § 10.1-1186.2 and as described in Appendix A of this Order.
3. The Department has the sole discretion to:
  - a. authorize any alternate SEP proposed by Halifax County; and
  - b. determine whether the SEP, or alternate SEP, has been completed in a satisfactory manner.
4. Should the Department determine that the SEP, or alternate SEP, has not been completed in a satisfactory manner, the Department shall notify Halifax County in writing. Within 30 days of notification, Halifax County shall pay the amount specified in Paragraph 2 of Section D, and in accordance with the procedures specified in Paragraph 1 of Section D.

#### **SECTION E: Administrative Provisions**

1. The Board may modify, rewrite, or amend the Order with the consent of Halifax, for good cause shown by Halifax, or on its own motion after notice and opportunity to be heard.

2. This Order only addresses and resolves those violations specifically identified herein, including those matters addressed in the NOV number 2001-08-PRO-603 issued to Halifax by DEQ on August 10, 2001. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.
3. For purposes of this Order and subsequent actions with respect to this Order, Halifax admits to the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. Halifax consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Halifax declares it has received fair and due process under the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, and the Waste Management Act and waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.
6. Failure by Halifax to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Halifax shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Halifax shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Halifax shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
  - a. the reasons for the delay or noncompliance;

- b. the projected duration of any such delay or noncompliance;
- c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
- d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director within 24 hours of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

- 9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
- 10. This Order shall become effective upon execution by both the Director or his designee and Halifax. Notwithstanding the foregoing, Halifax agrees to be bound by any compliance date which precedes the effective date of this Order.
- 11. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to Halifax. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Halifax from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.
- 12. By its signature below, Halifax consents to the issuance of this Order.

And it is so ORDERED this \_\_\_\_\_ day of \_\_\_\_\_, 2003.

\_\_\_\_\_  
Robert G. Burnley, Director  
Department of Environmental Quality

Halifax consents to the issuance of this Order.

By: \_\_\_\_\_

Date: \_\_\_\_\_

Commonwealth of Virginia

City/County of \_\_\_\_\_

The foregoing document was signed and acknowledged before me this \_\_\_\_\_ day of  
\_\_\_\_\_, 2003, by \_\_\_\_\_, who is the  
Joseph N. Morgan

County Administrator of Halifax County, Virginia.

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_.

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## **APPENDIX A**

1. The SEP to be performed by Halifax County is construction and operation of a Solid Waste Collection and Recycling Convenience Center.
2. The SEP shall be completed by November 1, 2003.
3. Halifax County certifies that they have not commenced performance of the SEP prior to the identification of the violations cited in this Consent Order and the approval of the SEP by the Department.
4. The net cost of the SEP to Halifax County shall not be less than \$14,700.00. In the event that the final net cost of the SEP is less than this amount, Halifax County shall pay the remainder of the amount in accordance with Section D, paragraph 1 of this Order to the Commonwealth of Virginia. Net costs shall mean the costs of the project minus any tax savings, grants and first-year operation cost reductions or other efficiencies.
5. Halifax County acknowledges that it is solely responsible for completion of the SEP project. Any transfer of funds, tasks, or otherwise by Halifax County to a third party, shall not relieve Halifax County of its responsibility to complete the SEP as contained in this Order.
6. Halifax County shall provide the Department with written verification of completion of the SEP by providing a letter from the Halifax County Administrator. The project completion verification must be submitted to the Department within 90 days from the SEP completion date in item number 2 of Appendix A of this Order.
7. Halifax County shall submit written verification to the Department in the form of a certified statement itemizing costs, invoices and proof of payment, or similar documentation of the final overall and net cost of the SEP within 90 days of the SEP completion date in item number 2 of Appendix A of this Order. For the purposes of this submittal, net costs can be either the actual final net costs or the projected net costs if such projected net costs statement is accompanied by a CPA certification or certification from Halifax County's Chief Financial Officer concerning the projected tax savings, grants or first-year operation cost reductions or other efficiencies.
8. In the event that Halifax County publicizes the SEP or the results of the SEP, Halifax County shall state in a prominent manner that the project is part of a settlement for an enforcement action.
9. Documents to be submitted to the Department, other than the civil charge payment described in Section D of the Order, shall be sent to:

Harry F. Waggoner  
Department of Environmental Quality  
7705 Timberlake Road, Lynchburg Virginia 24502